

# SENATE JOURNAL

*Sixty-fifth Legislature—First Called Session*

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AUSTIN, TEXAS, MONDAY, JULY 11, 1977

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## **PROCEEDINGS**

### **FIRST DAY**

(Monday, July 11, 1977)

In obedience to the Proclamation of The Honorable Dolph Briscoe, Governor of the State of Texas, the Senate met in the Senate Chamber at the City of Austin, on the eleventh day of July, 1977, at 10:00 o'clock a.m. and was called to order by the President.

### **QUORUM PRESENT**

The President directed the Secretary to call the roll of the Senate.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Traeger, Truan, Williams.

Absent-excused: Moore, Snelson.

### **LEAVES OF ABSENCE**

Senator Moore was granted leave of absence for today on account of important business on motion of Senator Creighton.

Senator Snelson was granted leave of absence for today on account of important business on motion of Senator Sherman.

The President announced a quorum of the Senate present.

The Reverend Jack Heacock, First United Methodist Church, Austin, Texas, offered the invocation as follows:

Lord of our life  
and Lord of the whole world:

Here we are, back to the drawing board...  
to work at

incisive research,  
hard-sell  
compromise  
threat and promise  
verbal combat  
and decision.

Every time we settle in to do our work,  
we see a special gallery of persons who watch over our shoulders:  
Husbands and wives,

Children  
Mothers and Fathers,  
Constituents,  
Persuasive special interest representatives.

Today help us to see a larger gallery over our shoulders:

Sam Houston  
Stephen F. Austin  
James Bowie  
Juan Seguin

Most of all, help us to sense YOUR presence here,  
and be alert to YOUR OWN SPECIAL INTERESTS:

The poor,  
The retarded and gifted,  
The fatherless,  
The lame and maimed,  
The powerless,

As we do our work,  
help us to perform well for our gallery  
and in the end to not be ashamed of our stewardship.  
In the name of all those who have given their lives  
to make the possibility of learning available to every child,  
and in the name of Abraham, Isaac, Jacob and Jesus Christ.  
Amen.

### **PROCLAMATION FROM GOVERNOR CALLING SPECIAL SESSION**

The President laid out the following Proclamation from the Governor:

#### **PROCLAMATION**

**BY THE**

**GOVERNOR OF THE STATE OF TEXAS**

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

Under the provisions of Article IV, Section 8 of the Constitution of the State of Texas, I, Dolph Briscoe, Governor of the State of Texas, do hereby call a Special Session of the 65th Legislature to be convened in the City of Austin, commencing at 10:00 a.m., the 11th day of July, 1977, for the following purposes:

1. To enact legislation to fund public education in Texas including:
  - a. a total cost within available state revenues;
  - b. a salary increase for teachers and other public school employees;
  - c. a decrease in the state local fund assignment;
  - d. an increase in funding for equalization; and
  - e. authorization of an in-depth study by the Legislature, with substantial citizen input, to address the issue of a new index for determining local fund assignment.

2. To consider and act on such other subjects and questions as the Governor may submit from time to time.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of State to be affixed hereto at Austin, this the 8th day of July, A.D., 1977.

DOLPH BRISCOE  
Governor of Texas

ATTEST:

MARK WHITE  
Secretary of State

The Proclamation was read and was filed with the Secretary of the Senate.

**MOTION IN WRITING**

Senator Aikin submitted the following Motion in Writing:

Mr. President, I move that the President be authorized to appoint a committee of five (5) members to notify the Governor that the Senate is organized and ready for business.

AIKIN

The motion was read and was adopted.

The President announced the appointment of the following as a committee to notify the Governor: Senators Jones of Taylor, Farabee, Lombardino, Williams and Andujar.

**MOTION IN WRITING**

Senator Aikin submitted the following Motion in Writing:

Mr. President, I move that the President be authorized to appoint a committee of five (5) members of the Senate to notify the House that the Senate is organized and ready for business.

AIKIN

The motion was read and was adopted.

The President announced the appointment of the following as a committee to notify the House: Senators Braecklein, Harris, Patman, Clower and Meier.

**AT EASE**

The President announced the Senate would Stand At Ease Subject to the Call of the Chair.

### IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session at 10:14 o'clock a.m. today.

### SENATE RESOLUTION 1

Senator Aikin offered the following resolution:

Honorable William P. Hobby  
Lieutenant Governor  
Senate of Texas  
Austin, Texas

Sir:

At a caucus held in the office of the Senate attended by 27 members of the Senate, the following recommendations were made, to wit:

The following officers were elected to serve for the 65th Legislature, First Called Session, at the will of the Senate and at salaries set by the Administration Committee:

Secretary of the Senate, Betty King  
Journal Clerk, Margrette Vollers  
Sergeant-at-Arms, Tommy Townsend  
Doorkeeper, Lowell Gault  
Enrolling Clerk, Patsy Spaw  
Staff Services Clerk, Mary K. McLean

All officers and employees appointed by this caucus shall hold their office of employment for the duration of the 65th Legislature, First Called Session.

It is recommended that the Lieutenant Governor and the Secretary of the Senate each be permitted to name secretarial staff and assistants at salaries designated by the Lieutenant Governor and the Administration Committee respectively. The parliamentarian, Tanner Hunt, is to be named by the Lieutenant Governor, shall receive \$1,500.00 per month.

It is further recommended that the Administration Committee appoint a sufficient number of custodians, messengers, pages, elevator operators, porters and other employees as may be necessary. The President of the Senate is authorized to designate any member of the Senate or Senate staff to attend official meetings of the Council of State Governments, or other national governmental organization during the 65th Legislature, First Called Session, while in session. Actual and necessary expenses are hereby authorized as reimbursement for such trips.

It is further recommended that each Senator shall be permitted to employ secretarial and other office staff at a maximum payroll of \$4,900.00 per month under the following classification schedule:

Title	Class Number	Group	Salary and Step Range
Clerk I	0051	02	534(1) - 552(2) - 571(3)
Messenger	0011	02	590(4) - 610(5) - 630(6)
Clerk Typist II	0106	04	610(1) - 630(2) - 651(3)
Stenographer I	0126	04	673(4) - 696(5) - 719(6)
Secretary II	0133	05	743(5) - 768(6) - 794(7)
Secretary III	0135	07	848(5) - 876(6) - 906(7)
Admin. Sec.	0138	09	968(5) - 1000(6) - 1034(7)
Info. Spec. I	1892	14	1179(1) - 1219(2) - 1259(3)
Admin. Tech. I	1501	08	906(5) - 936(6) - 968(7)
Admin. Tech. II	1502	11	1068(4) - 1104(5) - 1141(6)

Admin. Tech. III	1503	13	1179(3) - 1219(4) - 1259(5)
Admin. Tech. IV	1504	15	1345(3) - 1391(4) - 1437(5)
Info. Spec. II	1893	16	1391(2) - 1437(3) - 1486(4)
Attorney III	3533	17	1437(1) - 1486(2) - 1535(3)
Research Asst. II	1517	13	1302(6) - 1345(7) - 1391(8)
ADP Equip. Oper. I	0221	07	743(1) - 794(3) - 848(5)
Rep. Equip. Oper. I	0309	09	848(1) - 906(3) - 968(5)

Employees who do not readily fit one of the above classified positions may be assigned a title under the General Classified Positions outlined in the General Appropriations Act upon authorization of the Administration Committee.

The names of such employees as are not employed directly in a Senator's office shall be referred to an assignment committee hereinafter provided for and such committee shall be authorized to select employees from such list. The appointed officers of the Senate may select, subject to the approval of the Administration Committee, employees to fill such key positions as may be authorized by said committee. All such employees shall be designated in a classified position as determined by the Administration Committee.

It is further recommended that the President of the Senate be authorized to name a committee of seven. Such committee shall be designated as the Assignment Committee for the purpose of assigning employees as herein authorized and the committee shall be authorized to select sufficient additional employees to be assigned by it when and where needed.

It is further recommended that each Senator, as quickly as possible, file with the Secretary of the Senate the names of his office staff; that he also file with the Chairman of the Assignment Committee aforesaid the names of the employees selected, together with his or her post office address.

The Lieutenant Governor, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeants-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that the Lieutenant Governor, each Senator and the Secretary of the Senate, be permitted to subscribe for newspapers as necessary to be paid out of the contingent fund, be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that not to exceed 2,000 Journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 Journals shall be furnished the members of the House.

It is further recommended that the Legislative Reference Library be furnished 60 copies of the daily Journal.

It is further recommended that all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the 65th Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, members of the Senate, and employees of the Senate committees upon presentation of a payroll account signed by the President of the Senate and the Secretary of the Senate; for payment of employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies and expenses of the Senate, including travel expenses for members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate.

It is further recommended that no employee of the Senate shall, during the time he or she is employed, furnish to any person, firm or corporation any information other than general information furnished the public pertaining to the Senate and they shall not without permission receive any compensation from any person, firm or corporation during their employment by the Senate and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, members of the Senate, Secretary of the Senate, committee, or to the head of a department, shall report for duty at eight o'clock a.m., and one o'clock p.m. each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the Chairman of each standing committee shall have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, and to discharge the duties of said standing committee, subject to the approval of the Administration Committee.

It is further recommended that the Chairman of the Finance Committee have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, who shall discharge the duties of the Finance Committee.

It is further recommended that no employee of the Senate, except those whose official duties require them to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, after the performance of which he shall immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have the privileges of the floor during the session of the Senate shall be permitted on the Senate floor for a period of thirty minutes prior to the time the Senate convenes. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such thirty minute period.

Respectfully submitted,  
A. M. Aikin, Jr.  
Senator A. M. Aikin, Jr.  
Chairman of the Caucus

Don Adams  
Secretary of the Caucus

The resolution was read and was adopted.

#### RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the adoption of the resolution.

**SENATE CONCURRENT RESOLUTION 2**

Senator Adams offered the following resolution:

Whereas, The Honorable Dolph Briscoe, Governor of Texas, desires to deliver a message in person to the First Called Session of the 65th Legislature; now, therefore, be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the two Houses meet in Joint Session at 11:00 o'clock a.m. in the Hall of the House of Representatives on Monday, July 11, 1977 to hear the Governor's message.

The resolution was read.

On motion of Senator Adams and by unanimous consent, the resolution was considered immediately and was adopted.

**COMMITTEE APPOINTED**

In accordance with the provisions of S.C.R. 2, the President announced the appointment of the following as a Committee to escort Governor Dolph Briscoe to the Joint Session: Senators Jones of Taylor, Farabee, Lombardino, Williams and Andujar.

**GOVERNOR NOTIFIED**

The Committee to notify the governor that the Senate was organized and ready to transact business appeared at the Bar of the Senate and Senator Jones of Taylor for the Committee notified the President and the Members of the Senate that the Committee had performed the duty assigned it.

The Committee was discharged.

**STANDING COMMITTEES**

The President announced that the Standing Committees of the 65th Legislature would continue for the First Called Session of the 65th Legislature.

**SENATE BILL ON FIRST READING**

The following bill was introduced, read first time and referred to the Committee indicated:

**S.B. 1** by Mauzy, Brooks, Sherman  
Jones of Taylor, Aikin

Committee of the Whole Senate

Relating to public school education; amending various provisions of the Texas Education Code, as amended, as follows: amending Section 16.056, relating to salaries of school personnel; amending Section 16.151, relating to the operating cost allotment to school districts; amending Section 16.206(c), (g), (h), and (i), relating to the allotment to school districts for transportation services; amending Section 16.102, relating to the personnel unit allotments; amending Section 16.103(f), relating to vocational personnel; amending Sections 16.104, 11.052, and 11.10(o), (q), (s), and (t) and adding Section 11.103, relating to special education for handicapped children; amending Section 16.252, relating to each school district's

share of the Foundation School Program cost; amending Sections 16.251(b) and 16.254(a) and (d), relating to minimum Foundation School Program costs; amending Subchapter H, Chapter 16, relating to equalization aid for program enrichment; amending Section 20.03 and adding Sections 20.52 and 20.53, relating to school property taxes; amending Sections 11.32 and 11.33, relating to regional service centers; adding Section 11.36, relating to the assessment of student performance; adding Subchapter D to Chapter 20, relating to school appraisal and tax assessment practices; adding Section 20.54, relating to the authority of school districts to charge fees; amending Sections 12.14, 12.15, and 12.18(e) and adding Subsections (c) and (d) to Section 12.01, relating to textbooks; amending and renumbering Section 21.911, relating to educational television; repealing Sections 16.256, 16.207(d) and 16.212; and making appropriations.

### SENATE CONCURRENT RESOLUTION 1

Senator Adams offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That pursuant to Article XV, Section 8, of the Texas Constitution, the Governor of the State of Texas be and is hereby addressed to remove Donald B. Yarbrough from the office of Associate Justice of the Supreme Court of Texas for the following causes:

1. That on June 28, 1977, he committed the offense of aggravated perjury. Specifically, on that date he personally appeared at an official proceeding, that is, a regular session of the Travis County Grand Jury, April Term, 1977, and in connection with and during that official proceeding and after being duly sworn by an officer authorized by law to administer oaths, did knowingly and intentionally make, under oath, a false statement with knowledge of the statement's meaning and with intent to deceive; the false statement was material to the issue under inquiry during the official proceeding; the false statement could have affected the course and outcome of the official proceeding; and the statement was required and authorized by law to be made under oath.

2. That on or about May 16, 1977, he committed the offense of forgery. Specifically, on that date in Travis County, Texas, he did knowingly and intentionally, and with the intent to defraud and harm another, make and execute a writing so that it purports to be the act of another who did not authorize that act; and said writing is, and purports to be, an instrument issued by the State of Alabama, County of Covington; and at the same time and place did knowingly and intentionally, and with the intent to defraud and harm another, make and execute a writing so that it purports to have been executed on the 10th day of December, 1976, which time was a time other than was in fact the case; and said writing is, and purports to be, an instrument issued by the State of Alabama, County of Covington.

3. That on numerous occasions in the months of May and June, 1977, he planned and solicited commission of the offense of capital murder. Specifically, on or about May 13, 1977, in Houston, Harris County, Texas, he knowingly and intentionally solicited and requested that John William "Bill" Rothkopf locate and identify a person or persons willing to commit the capital murder of Bill Kemp, for and in consideration of a sum of money to be paid by Donald B. Yarbrough to the killer through Rothkopf.

ADAMS  
HANCE  
JONES OF HARRIS



The resolution was read and was referred to the Committee of the Whole Senate.

### SENATE CONCURRENT RESOLUTION 3

Senator Adams offered the following resolution:

WHEREAS, Senate Concurrent Resolution No. 1, filed in the senate, and House Concurrent Resolution No. 1, filed in the house of representatives, propose to address the Governor of Texas to remove Associate Justice Donald B. Yarbrough from office as provided by Article XV, Section 8, of the Texas Constitution; and

WHEREAS, The constitution provides that the judge so intended to be removed shall be admitted to a hearing in his own defense before any vote for such address shall pass; and

WHEREAS, The hearing can most expeditiously be conducted by each house of the legislature sitting as a committee of the whole but meeting jointly in the chamber of the house of representatives; and

WHEREAS, Such a joint hearing would insure that all members of the legislature would hear the same testimony and the judge intended to be removed and his legal counsel, witnesses, and other participants would not be inconvenienced by having to appear before the two bodies separately on the same causes; and

WHEREAS, A joint hearing would reduce the cost of the hearing for both the judge intended to be removed and the taxpayers of the state; now, therefore, be it

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring:

Section 1. On Friday, July 15, 1977, at 9 a.m., committees of the whole house of representatives and the whole senate shall convene in a joint meeting in the chamber of the house of representatives to hear evidence and argument on the charges contained in Senate Concurrent Resolution No. 1 and House Concurrent Resolution No. 1, addressing the governor to remove from office Associate Justice of the Supreme Court Donald B. Yarbrough.

Sec. 2. At the beginning of the joint meeting, as well as on the convening of each daily session of the joint meeting and immediately following any recess or adjournment, the chairman of the committee of the whole senate shall cause the roll of members of that committee to be called and announce whether a quorum is present. The chairman of the committee of the whole house shall then cause the members of that committee to register their attendance and shall announce whether a quorum is present. When it is determined that a quorum of each committee is present, the joint meeting shall proceed in accordance with the rules prescribed in this resolution.

Sec. 3. As soon as possible after adoption of this resolution, the speaker and lieutenant governor acting jointly shall appoint members of the legislature to act as counsel for the proponents in the joint meeting. The speaker shall designate one of the appointees as chief counsel.

Sec. 4. The following rules govern the proceedings conducted before the joint committee meeting required by this resolution:

Rule 1. SCOPE OF JOINT MEETING. The committees while in joint meeting shall be limited to taking evidence and arguments of counsel on the charges contained in Senate Concurrent Resolution No. 1 and House Concurrent Resolution No. 1. Except for motions by counsel for the proponents or the respondent, motions, votes, or other action on either resolution are not in order.

Rule 2. PRESIDING OFFICER. The chairman of the committee of the whole senate shall preside at the joint meeting.

**Rule 3. ORDER AND SECURITY.** The sergeant-at-arms of the house and the sergeant-at-arms of the senate, acting jointly, shall maintain order and security in the chamber of the house and its gallery and approaches.

**Rule 4. ADMISSION TO FLOOR.** Only the following persons may be admitted to the floor while the joint meeting is in progress:

- (1) members of the committees;
- (2) the respondent and his counsel;
- (3) witnesses at the time they testify;
- (4) the sergeant-at-arms and assistant sergeants-at-arms of each house;
- (5) the chief clerk of the house of representatives, the secretary of the senate, and the journal clerk of each house;
- (6) the parliamentarian of the joint meeting and the advisor on evidence;
- (7) members of the press admitted under Rule 5;
- (8) the official reporter; and
- (9) other persons authorized in writing by the presiding officer of the joint meeting.

**Rule 5. PRESS.** Representatives of the media shall be confined to the area of the chamber set aside for the media, and shall be limited in number to the number of seats provided in that area. The sergeant-at-arms of the house shall reserve seats in the gallery for the media in the number designated by the presiding officer. Representatives of the press shall not converse with any member of either committee in the chamber during the joint meeting, and shall remain in their seats except when entering or leaving the chamber.

**Rule 6. CAMERAS.** Cameras and photographic equipment are prohibited during a joint meeting, both in the chamber and in the gallery. The presiding officer and the sergeants-at-arms shall see that this rule is strictly enforced.

**Rule 7. RECESS OR ADJOURNMENT.** (a) The two committees by agreement may recess or adjourn the joint meeting from time to time.

(b) The two committees by agreement may finally adjourn the joint meeting when its business has been completed. On final adjournment, each of the committees shall rise and report to its respective house.

(c) Agreement of the two committees for purposes of this rule may be evidenced by each committee's adoption of an appropriate motion. To consider a motion to recess or adjourn a joint meeting, the presiding officer shall announce that the joint meeting is suspended pending the consideration of the motion by each of the two committees of the whole. When the two committees of the whole have acted on the motion, the presiding officer shall call the joint meeting to order and announce the result.

**Rule 8. QUORUM.** Two-thirds of the membership of each committee constitutes a quorum.

**Rule 9. RIGHTS OF RESPONDENT.** The judicial official whose removal by address is proposed (hereinafter referred to as respondent) is entitled to be present at all proceedings of the committees, to be represented by counsel, to present pleadings, evidence, motions, and argument, and to cross-examine witnesses.

**Rule 10. MOTIONS.** (a) Except for motions to recess, adjourn, or suspend these rules, all motions must be made in writing, signed by counsel for proponents or respondent, and filed with the chief clerk of the house and the secretary of the senate.

(b) The presiding officer of the joint meeting shall rule on all motions except motions to postpone, motions to recess or adjourn, and motions to suspend these rules. A ruling of the presiding officer is not subject to appeal. If a motion to postpone is made, the presiding officer shall suspend the joint meeting and a vote shall be taken of each committee of the whole, the chairman of each committee announcing the result.

(c) Except for a motion to recess or adjourn, a motion is debatable, and the moving party is entitled to open and close.

Rule 11. VOTES. If a vote is taken on any motion, including a motion to recess or adjourn, the motion carries only if it receives an affirmative vote of a majority of those present and voting of each committee of the whole.

Rule 12. ORDER OF PROCEEDING. (a) The counsel for proponents are entitled to open and to close.

(b) The respondent is entitled to make an opening statement either before the presentation of evidence begins or at the conclusion of presentation of evidence by the proponents, at his option. The respondent is also entitled to make a closing statement.

(c) The presiding officer may impose limitations on the duration of the opening and closing statements by both the proponents and the respondent.

Rule 13. PRODUCTION OF WITNESSES AND OTHER EVIDENCE.

(a) Counsel for the proponents and the respondent are each entitled to have process issued to require the attendance of witnesses and the production of papers and other items that are relevant and material to an issue before the joint meeting.

(b) The speaker of the house of representatives may issue process in his name on the written request of one or more counsel for the proponents, or the respondent or his counsel. The process may be addressed to and served by any peace officer or a sergeant-at-arms or assistant sergeant-at-arms of either house at any place within this state. The officer serving a subpoena shall file with the chief clerk of the house of representatives a return of service. The process shall be in a form approved by the speaker.

(c) To insure compliance with process the speaker may issue writs of attachment.

(d) As soon as practicable after issuance of process, the speaker shall notify opposing party or his counsel of the name of the witness subpoenaed and an itemized list of any papers or other items subpoenaed.

Rule 14. WITNESSES. (a) The presiding officer shall administer an oath to each person appearing as a witness before the joint committee meeting.

(b) Unless the witness objects to taking an oath that includes the phrase "so help me God," the presiding officer shall administer the following oath: "You (and each of you) do solemnly swear or affirm that the evidence you give at this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God." However, if the witness objects to that oath, the presiding officer shall administer the following oath: "Understanding the pains and penalties of perjury, you (and each of you) do solemnly swear or affirm that the evidence you give at this hearing shall be the truth, the whole truth, and nothing but the truth."

(c) No witnesses may be heard except those called by the proponents and the respondent.

(d) Witnesses appearing subject to process issued pursuant to this resolution are entitled to reimbursement for expenses as provided by law for witnesses appearing before a grand jury.

Rule 15. SEPARATION OF WITNESSES. (a) At the request of counsel for the proponents or for the respondent, the witnesses for both sides may be sworn and removed from the chamber of the house to some other place where they cannot hear the testimony given by other witnesses before the joint committee meeting. However, members of the committees and the respondent and his counsel may not be excluded under this rule.

(b) The presiding officer shall instruct witnesses separated under this rule that they are not to converse with each other or with any other person, other than counsel for the proponents and the respondent and his counsel, about matters under consideration before the joint committee meeting and that they are not to read any report of or comment on the evidence presented before the joint committee meeting.

**Rule 16. EVIDENCE.** (a) The admissibility of evidence is governed by the rules of evidence applicable in the civil courts of this state.

(b) The presiding officer shall decide all questions of evidence, and his rulings may not be appealed.

**Rule 17. PARTICIPATION BY MEMBERS.** (a) Members of the committees may have questions propounded to a witness after conclusion of examination and cross-examination of the witness, but all questions by members other than counsel for the proponents must be reduced to writing and delivered to the presiding officer. The presiding officer shall provide copies of each question to counsel for the proponents and the respondent.

(b) At the conclusion of examination and cross-examination of each witness, the presiding officer shall take up the members' questions in the order in which they were delivered to him. On each question, he shall first determine if the member still wishes the question to be propounded. If the member does not withdraw the question, the presiding officer shall determine if either counsel has any objection to the question. If neither counsel objects or if all objections are overruled, the presiding officer shall propound the question. If the presiding officer sustains an objection to the question, he shall deliver the question to the reporter for inclusion in the record.

(c) A member may also submit questions to counsel for the proponents or for the respondent. However, counsel may decline to propound a question submitted by a member.

**Rule 18. RECORD OF PROCEEDINGS.** (a) The house shall provide for a verbatim record of all proceedings before the joint committee meeting. The house shall require the record to be printed as soon as practicable after the conclusion of each day's proceedings.

(b) Each item of documentary evidence shall be entered in the record, but the original may be released if a duplicate is available for the record.

(c) The presiding officer shall deliver a copy of each day's record as soon as it is printed to the proponents and respondent and their counsel. He shall make additional copies available for the committee members.

(d) The official record of the proceedings shall be reproduced as an appendix to the journal of each house.

**Rule 19. COSTS.** The house of representatives shall pay all costs incurred in conducting the proceedings before the joint committee meeting. The senate shall reimburse the house for one-half the costs.

**Rule 20. ADDITIONAL RULES.** The two committees, by a majority vote of the membership of each committee, may adopt additional rules that are not inconsistent with these rules to govern proceedings before the joint committee meeting.

**Rule 21. SUSPENSION OF RULES.** These rules may be suspended only by affirmative vote of two-thirds of the members of each committee present and voting.

**Rule 22. RULES SILENT.** When these rules are silent, the rules of the house and the senate govern the conduct of the respective committees while in joint session.

**Sec. 5.** On final adjournment of the joint meeting, each house shall retire to its chamber and shall consider and determine whether, beyond a reasonable doubt, the legislature should address the governor to remove Donald B. Yarbrough from the office of associate justice of the supreme court.

**Sec. 6.** The sergeant-at-arms or an assistant sergeant-at-arms of the house of representatives shall serve the respondent personally with a certified copy of this resolution and shall file a return of service with the chief clerk of the house of representatives.

ADAMS  
HANCE  
JONES OF HARRIS

The resolution was read and was referred to the Committee of the Whole Senate.

#### **HOUSE NOTIFIED**

The Committee to notify the House that the Senate was organized and ready to transact business appeared at the Bar of the Senate and Senator Braecklein for the Committee notified the President and the Members of the Senate that the Committee had performed the duty assigned it.

The Committee was discharged.

#### **SENATE NOTIFIED**

A Committee from the House appeared at the Bar of the Senate and Representative Finnell for the Committee announced that the House of Representatives was organized and ready to transact business.

#### **ELECTION OF PRESIDENT PRO-TEMPORE FOR FIRST CALLED SESSION OF THE SIXTY-FIFTH LEGISLATURE**

The President announced the election of a President Pro Tempore as the next order of business.

Senator Aikin nominated Senator Peyton McKnight of Tyler as President Pro Tempore for the First Called Session of the Sixty-fifth Legislature.

Senators Adams, Harris, Creighton, Schwartz, Hance, Santiesteban, Farabee, Mengden, Andujar, Ogg, Patman, Williams, Parker and Meier seconded the nomination of Senator McKnight.

There being no further nominations, the President announced the appointment of Senators Jones of Harris and Truan as Tellers to take up and count the ballots.

The ballots were taken up and counted and the President announced that Senator McKnight received 28 votes with 1 present and not voting for President Pro Tempore of the First Called Session of the Sixty-fifth Legislature and declared him duly elected.

The President appointed Senators Adams, Hance, Harris, Creighton and Aikin to escort Senator McKnight to the President's Rostrum.

Senator McKnight then addressed the Senate, expressing his appreciation for the honor of serving his colleagues.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
July 11, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 2**, Providing for a Joint Session to hear an address by Governor Dolph Briscoe.

Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives

### SENATE RESOLUTION 2

Senator Meier offered the following resolution:

WHEREAS, The 64th Legislature, in Chapter 727, Acts of the 64th Legislature, 1975, established single-member legislative districts for District 32 in Tarrant County; and

WHEREAS, On February 19, 1976, the United States District Court for the Western District of Texas entered an order reapportioning those single-member legislative districts in Tarrant County encompassed by Districts 32A through 32I of Chapter 727, Acts of the 64th Legislature, 1975; and

WHEREAS, That order has been in effect since the date of issuance and the 1976 elections were conducted in accordance with that plan, in which elections one Black and one Republican were elected to represent two of those districts; and

WHEREAS, The election of these representatives indicates that the plan embodied in that order is effective to broaden participation in the political processes; and

WHEREAS, The districts drawn in that order conform with the judicial and legislative intent of ensuring the representation of minorities, including the Mexican-American population of Tarrant County, which is separate and diverse from other ethnic minority populations in Tarrant County; and

WHEREAS, The districts drawn in that order are effective to protect the integrity of the various political subdivisions in Tarrant County, including the city of Fort Worth and the surrounding cities, towns, and villages; and

WHEREAS, The districts drawn in that order closely parallel the districts drawn by the legislature in Chapter 727, Acts of the 64th Legislature, 1975; and

WHEREAS, Changes in the boundary lines of the districts drawn in that order would hinder enforcement of the election laws of the State of Texas by those charged with enforcement; now, therefore, be it

RESOLVED, by the House of Representatives of the State of Texas, That the house hereby approve of the legislative districts drawn in the court order of February 19, 1976, and encourage the United States District Court for the Western District of Texas to make that existing order, which establishes the following districts, final:

32A. That part of Tarrant County included in census tracts 130, 131, 134.01, 134.02, 135.01, 135.02, 136.02, 137, 217.02, and 218, that part of census tract 65.05 East of the Handley-Ederville Road, and that part of census tract 136.01 included in census enumeration district 129 South of State Highway 121 and census block groups 3, 4, and 5;

32B. That part of Tarrant County included in census tracts 115.01, 115.02, 217.01, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, and 229;

32C. That part of Tarrant County included in census tracts 42.02, 54.01, 54.02, 55.01, 55.02, 55.03, 55.04, 56, 57.01, 57.02, 58, 59, 60.01, 60.02, 111.01, and 111.02, that part of census tract 47 South of Gambrell Street, that part of census tract 109 South of U.S. Highway 377 and South of Old Benbrook Road, and that part of census tract 110.02 North of Sycamore School Road;

32D. That part of Tarrant County included in census tracts 22, 23.01, 23.02, 24.01, 24.02, 25, 26, 27, 51, 52, 53, 106.01, 106.02, 107.01, and 107.02 and that part of census tract 109 North of U.S. Highway 377 and North of Old Benbrook Road;

32E. That part of Tarrant County included in census tracts 5.01, 6, 50.03, 66, 67, 101, 102, 104.01, 104.02, 105, 132.01, 138, 139, 140.01, 140.02, and that part of census tract 136.01 included in census enumeration districts 9A, 9B, 9C, 12, 14, 39, and 39B and that part of census enumeration district 129 North of State Highway 121, and that part of census tract 141 included in census enumeration district 47;

32F. That part of Tarrant County included in census tracts 1.01, 1.02, 2.01, 2.02, 3, 4, 8, 9, 10, 11, 12.02, 16, 17, 18, 32, 33, 34, 49, 50.01, 50.02, and that part of census tract 103 West of Haltom Road;

32G. That part of Tarrant County included in census tracts 12.01, 14.01, 14.02, 14.03, 15, 35, 65.01, 65.02, 65.03, 65.04, 132.02, 133.01, 133.02, 216.01, 216.02, 216.03, and that part of census tract 13 North of the Texas and Pacific Railway and that part of census tract 65.05 West of Handley-Ederville Road and that part of census tract 103 East of Haltom Road;

32H. That part of Tarrant County included in census tracts 36.01, 36.02, 37.01, 37.02, 38, 39, 45.01, 46.01, 46.02, 46.03, 46.04, 46.05, 61.01, 61.02, 62, 63, 64, and that part of census tract 13 South of the Texas and Pacific Railway and that part of census tract 45.02 East of Bryan Street; and

32I. That part of Tarrant County included in census tracts 5.02, 7, 19, 20, 21, 28, 29, 30, 31, 40, 41, 42.01, 43, 44, 45.03, 48.01, 48.02, and that part of census tract 45.02 West of Bryan Street and that part of census tract 47 North of Gambrell Street.

MEIER  
ANDUJAR

The resolution was read and was adopted.

#### RECORD OF VOTES

Senators Truan and Longoria asked to be recorded as voting "Present-Not voting" on the adoption of the resolution.

Senator Mauzy asked to be recorded as voting "Nay" on the adoption of the resolution.

#### MOTION TO RECESS

Senator Aikin moved that the Senate take recess at the conclusion of the Joint Session until 2:00 o'clock p.m. today.

#### JOINT SESSION

(To hear address of Governor Dolph Briscoe)

The President of the Senate and the Senators present escorted by the Sergeant-at-Arms and the Secretary of the Senate proceeded to the Hall of the House of

Representatives at 11:00 o'clock a.m. to hear the address of The Honorable Dolph Briscoe, Governor of Texas, pursuant to the provisions of S.C.R. 2.

On invitation of the Speaker, the President occupied a seat on the Speaker's Rostrum.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The Honorable Dolph Briscoe, Governor of the State of Texas, was announced by the Doorkeeper of the House.

The Governor's party was escorted to the Speaker's Rostrum by Senators Jones of Taylor, Farabee, Lombardino, Williams and Andujar on the part of the Senate, and Representatives Hale, Close, Delco, Grant and Vale on the part of the House.

The President called the Senate to order and announced a quorum of the Senate present.

The Honorable Bill Clayton, Speaker of the House of Representatives, called the House to order, stated the purpose of the Joint Session and announced a quorum of the House present.

The Speaker presented His Excellency, The Honorable Dolph Briscoe, Governor of the State of Texas, who addressed the Joint Session. (Full text of the Governor's address printed in House Journal of Monday, July 11, 1977.)

The Speaker then introduced Mrs. Janey Briscoe and Members of the Governor's party and staff.

### **RECESS**

The President announced that the purpose of the Joint Session had been concluded and stated that the Senate would at 11:12 o'clock a.m. take recess until 2:00 o'clock p.m. today, in accordance with a motion previously adopted by the Senate.

### **AFTER RECESS**

The President called the Senate to order at 2:00 o'clock p.m.

### **MESSAGE FROM THE HOUSE**

House Chamber  
July 11, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. No. 2, Providing for a joint session of committees of the whole House and Senate to consider removal of Donald B. Yarbrough by address.



Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives

### HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House, was read the first time and referred to the Committee indicated:

**H.C.R. 2**, To Committee of the Whole Senate.

### RULES SUSPENDED

On motion of Senator Adams and by unanimous consent, all necessary Senate rules were suspended in order that the Committee of the Whole Senate might consider **H.C.R. 2** today.

On motion of Senator Mauzy and by unanimous consent, all necessary Senate rules were suspended in order that the Committee of the Whole Senate might consider **S.B. 1** today.

### COMMITTEE OF THE WHOLE SENATE

On motion of Senator Aikin and by unanimous consent, the Senate resolved itself into the Committee of the Whole Senate in order to consider **H.C.R. 2**.

The President appointed Senator Mauzy to serve as Chairman of the Committee of the Whole Senate.

### IN LEGISLATIVE SESSION

The President called the Senate to order at 2:16 o'clock p.m. as In Legislative Session.

### REPORT OF COMMITTEE OF THE WHOLE SENATE

Senator Mauzy submitted the following report for the Committee of the Whole Senate:

**H.C.R. 2**

### HOUSE CONCURRENT RESOLUTION 2 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **H.C.R. 2** was ordered not printed.

### HOUSE CONCURRENT RESOLUTION 2

On motion of Senator Adams and by unanimous consent, Senate Rules 12, 68, and 74 were suspended in order to consider the following resolution:

**H.C.R. 2**, Providing for a joint session of committees of the whole House and Senate to consider removal of Donald B. Yarbrough by address.

The resolution was read second time and was adopted by the following vote:  
Yeas 27, Nays 0.

Absent: Creighton, McKnight.

Absent-excused: Moore, Snelson.

### **COMMITTEE OF THE WHOLE SENATE**

On motion of Senator Aikin and by unanimous consent, the Senate resolved itself into the Committee of the Whole Senate in order to consider S.B. 1.

### **IN LEGISLATIVE SESSION**

The President called the Senate to order at 4:20 o'clock p.m. as In Legislative Session.

### **CONGRATULATORY RESOLUTION**

S.R. 3 - by Clower: Extending congratulations to Mary Kay Edgington.

### **RECESS**

On motion of Senator Aikin the Senate at 4:21 o'clock p.m. took recess until 9:00 o'clock a.m. tomorrow.

### **FIRST DAY**

(Continued)

(Tuesday, July 12, 1977)

### **AFTER RECESS**

The Senate met at 9:00 o'clock a.m. and was called to order by Senator Mauzy.

### **MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas  
July 11, 1977

TO THE SENATE OF THE 65TH LEGISLATURE, FIRST CALLED SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments: